

**ASSEMBLY BUDGET SUBCOMMITTEE NO. 4
ON STATE ADMINISTRATION**

Assemblymember Juan Arambula, Chair

AGENDA

Wednesday, February 10, 2010

1:30 pm

State Capitol, Room 437

OVERVIEW OF THE GOVERNOR'S SPECIAL SESSION BUDGET PROPOSALS

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0596 CALIFORNIA VOLUNTEERS
0650 OFFICE OF PLANNING AND RESEARCH

ISSUE 1: ELIMINATION OF OPR AND ESTABLISHMENT OF CAL VOLUNTEERS AGENCY

The Special Session proposes to eliminate the Governor's Office of Planning and Research (OPR) and transfer functions of OPR to the Governor's office, the Business, Transportation, and Housing Agency, and the Natural Resource Agency. The Governor also proposes to establish a new California Volunteers Agency to house the volunteer program, which is currently within OPR.

Overall, the OPR proposal reduces the OPR budget by \$37.6 million (\$3.1 million General Fund) and 93.1 positions.

The California Agency on Service and Volunteering would be a stand-alone, independent agency within state government. The budget proposes \$34.2 million (\$1 million GF) and 41.4 positions be shifted from OPR to this new agency.

STAFF COMMENT

While the direction of this proposal matches actions taken by the Assembly in last year's Budget Conference Committee, the specific disposition of OPR functions differs from the recommendations of the LAO and the discussions held by members at that point. The Subcommittee may wish to defer discussion on this item to the Regular Session budget process, to allow time for discussion and analysis of the potential service impact to the diverse number of programs and services currently housed at OPR.

1100 CALIFORNIA SCIENCE CENTER

The Science Center, the Office of Exposition Park Management, and the California African American Museum (CAAM), are located in Exposition Park, a 160-acre tract in south Los Angeles, which is owned by the state and collectively known as the California Science Center. Its major exhibit facility opened in February 1998. The Science Center provides a series of educational exhibits and conducts educational programs focusing on science and technology.

ISSUE 1: FUND SHIFT – ADMISSION FEE PROPOSAL

The Governor's Special Session Budget proposes a reduction of \$12 million (General Fund) to be replaced with \$12 million to be generated by admission fees. In 2009-10 the Science Center received \$21.1 million in General Fund support, with an additional \$17.8 million coming from the Science Center Foundation, funded through donations and enterprise revenue.

The California Science Center does not currently charge an admission fee. They do, however, charge \$8 for parking, an admission fee for their IMAX Theatre, and admission fees for special exhibits as appropriate.

In 2004, the Legislative Analyst's Office (LAO) recommended a reduction in General Fund (GF) support for the Science Center to be replaced by revenue from an admission fee. The Legislature rejected the proposal, but did ask for a report to provide more information on the potential impact of an admission fee.

The report showed that although the fee would generate revenue, there would also be a corresponding reduction in attendance. That reduced attendance would decrease parking revenues, concession and gifts revenue, and IMAX attendance. While the ranges of potential impact varied based on the theoretical fee (30 percent to 70 percent reduction in attendance) the report showed a clear potential for negative impact on total funding levels due to decreased attendance.

The Governor's proposal does not provide back-up for how the \$12 million number was reached, nor does it provide specifics on the fee proposal. The Science Center was not informed of the proposal until the Governor's budget was released, and has since been tasked with determining the structure for the proposed fees.

The Governor's proposal specifically includes language in the special session to create a special fund. This language appears to be unnecessary, as the Science Center already has the Exposition Park Improvement Fund, where admission fee revenue could be deposited.

STAFF COMMENT

The science center is currently reviewing the fee study, discussed above, analyzing fees charged at comparable facilities, and determining if and how such a proposal could be implemented. They need more time to determine the best course of action, and there is no urgency to approving this proposal as part of the Special Session.

Based on an initial review of the previous study on the potential for charging admission fees, it is unlikely the Center could recover \$12 million through admission fees.

Staff would recommend withholding action to allow further analysis and hold discussion on this item until the regular budget hearings when a true proposal should be available.

7100 EMPLOYMENT DEVELOPMENT DEPARTMENT

The Employment Development Department (EDD) promotes California's economic growth by providing services to keep employers, employees, and job seekers competitive. The EDD connects employers with job seekers, administers the Unemployment Insurance, Disability Insurance, and Paid Family Leave programs, and provides employment and training programs under the federal Workforce Investment Act of 1998.

The Employment Training Panel provides assistance to employers by providing funds to off-set the costs of job skills training. This program is entirely funded by the Employment Training Tax (ETT) paid by employers.

ISSUE 1: EMPLOYMENT TRAINING PROGRAM INITIATIVE

The Governor proposes to implement an 18-month initiative for employers to apply through the Employment Training Panel (ETP) for both training grants and incentive payments to train and employ individuals for at least nine months. Training reimbursement is \$1,400 per employee after 3-months worked and the employer incentive payment is \$3,000 per employee after additional 6-months worked. The Administration estimates the Initiative will result in 140,000 individuals obtaining higher paying jobs, and 100,000 unemployed individuals with training leading to jobs.

This proposal requests 8 new ETP positions to administer the initiative. Trailer bill language authorizes ETP to enter into partnerships to receive funding by a transfer rather than direct appropriation to the Employment Training Fund and eliminates the exemption provided to negative reserve employers from paying the Employment Training Tax (ETT).

Funding Structure: The Governor proposes to fund the initiative by borrowing \$500 million from the Unemployment Compensation Disability Fund (UCDF) to the Employment Development Department (EDD) and Employment Training Panel (ETP). **Unemployment Compensation Disability Fund** is funded entirely by employees and provides benefits to workers who are unable to work due to pregnancy or a non-work related illness/injury. Expenditures will occur through 2012-13, as follows:

- 2009-10: The proposal consists of a \$32 million loan for (1) \$2 million would be used to hire three new Position Years (PYs) in current year and (2) \$30 million would be used by ETP for training cost payments.

- 2010-11: The proposal consists of \$140 million for training cost payments and \$90 million for employer incentive payments.
- 2011-12: The proposal consists of \$60 million for training cost payments and \$150 million for employer incentive payments.
- 2012-13: The proposal consists of \$28 million in incentive costs.

Repayment of Loan: The Governor proposes Trailer Bill Language to eliminate the exemption provided to negative reserve employers from paying the Employment Training Tax (ETT), which is estimated to result in approximately \$54 million in new ETT revenues annually, of which \$50 million would be devoted each year for loan repayment.

- The ETT is capped at \$7 per year per employee. Exempt employers are those with large seasonal workforces and high unemployment, such as agriculture, food processing, and construction.
- Repayment plan to be completed by fiscal year 2019-2020.

STAFF COMMENT

In assessing the Governor's Job Initiative proposal, the Subcommittee has to consider the impact of (1) imposing the Employment Training Tax on negative reserve employers, (2) repaying DI Fund loan with ETT, which has currently projected a \$17.6 million shortfall, (3) subjecting employers to repay DI Fund loan with an uncertain repayment timeframe, and (4) creating significant changes to the Employment Training Panel's functions.

There is a clear need for job creation, but this Subcommittee will need to assess if this proposal is realistic is its goals, taking into account the current Workforce Investment Act projects as well as the efforts funded through Federal American Recovery & Reinvestment Act.

0250 JUDICIAL BRANCH

The California Constitution vests the state's judicial power in the Supreme Court, the Courts of Appeal, and the trial courts. The Supreme Court, the six Courts of Appeal, and the Judicial Council of California, which is the administrative body of the judicial system, are entirely state-supported. The Trial Court Funding program provides state funds (above a fixed county share) for support of the trial courts. *Chapter 850, Statutes of 1997 (AB 233, Escutia and Pringle)*, shifted fiscal responsibility for the trial courts from the counties to the state.

ISSUE 1: AUTOMATED SPEED ENFORCEMENT

The Governor's Special Session proposes a new revenue source generated from penalties imposed on drivers who are caught speeding through the use of automated speed enforcement (ASE) systems. Estimated revenues of \$338 million would allow for a \$297 million General Fund reduction to the Trial Courts. In addition, the Administration proposes to use \$41 million to augment funding dedicated to trial court security. 15 percent of the total fine revenue is proposed to go to counties to administer the program.

According to the Administration, the ASE systems would operate similarly to the existing automated red light enforcement systems. For example, when a driver speeds through an intersection, automated cameras would take a photograph of the driver, as well as the license plate of the vehicle. The Administration indicates that many of the roughly 600 automated red light enforcement systems that currently exist throughout the state could be modified to also identify individuals speeding through intersections—regardless of whether the traffic signal light was red. This is because most of existing systems currently have the capability to track a vehicle's speed.

As is the case with the existing automated red light enforcement systems, a photograph capturing the alleged violations, as well as any pertinent data (such as the speed of the vehicle), would generally be transmitted to the private vendor that installed and monitors the ASE system. The vendor would then review the information based on criteria established in an agreement with the local government operating the system. For example, a vendor could be directed to ignore violations that are below a certain threshold above the posted speed limit (for example, driving less than 5 mph faster than allowed). Following this review process, the vendor would transmit to the local jurisdiction all alleged violations that meet these criteria for them to determine whether to issue a citation. Under the Governor's proposal, and similar to the existing systems for red light enforcement, only designated peace officers in the local jurisdiction would be authorized to issue the citation.

The Legislative Analyst's Office has raised the following concerns regarding this proposal:

- Estimating revenue is difficult do to factors such as local participation and the number of violations that are likely to result in fines collected.
- ASE fines and distribution methodology differ from current law.
- Directing revenue to the courts limits budget flexibility.

STAFF COMMENT

In addition to the LAO's concerns, we must also consider the impact that this proposal has on public safety. To the extent that motorists reduce driving above the legal speed limit or law enforcement officers can devote more time to other activities, public safety could potentially be enhanced. However, there have also been concerns raised that this proposal may in fact harm public safety and that the Administration did not take public safety implications into account when developing the ASE proposal.

0820 DEPARTMENT OF JUSTICE

The constitutional office of the Attorney General, as chief law officer of the state, has the responsibility to see that the laws of California are uniformly and adequately enforced. This responsibility is fulfilled through the diverse programs of the Department of Justice.

The Department of Justice is responsible for providing skillful and efficient legal services on behalf of the people of California. The Attorney General represents the people in all matters before the Appellate and Supreme Courts of California and the United States; serves as legal counsel to state officers, boards, commissions, and departments; represents the people in actions to protect the environment and to enforce consumer, antitrust, and civil rights laws; and assists district attorneys in the Administration of justice. The Department also coordinates efforts to address the statewide narcotic enforcement problem; assists local law enforcement in the investigation and analysis of crimes; provides person and property identification and information services to criminal justice agencies; supports the telecommunications and data processing needs of the California criminal justice community; and pursues projects designed to protect the people of California from fraudulent, unfair, and illegal activities.

ISSUE 1: INCREASE DNA PENALTY ASSESSMENT FOR LAB SUPPORT

The Governor proposes to increase the DNA penalty assessed on all convicted offenders and use the additional revenue to offset General Fund costs related to the state's crime labs, including operations and lease-revenue bond costs. The proposal includes language that would expand the allowable uses of this funding for crime lab operations. The penalty would be increased from an additional \$1 penalty for every \$10 in fine, penalty, or forfeiture collected by the courts to \$3 for every \$10 in fine, penalty, or forfeiture collected. Revenues are deposited into the DNA Identification Fund. The Administration estimates revenues of \$13.7 million this year and \$45.1 million in the budget year.

The penalty assessment the Administration proposes to increase was established by the Legislature in 2006 and is in addition to the \$1 penalty created by Proposition 69, approved by voters in 2004. The revenues from the Proposition 69 penalty are shared between the state and counties.

STAFF COMMENT

The LAO finds that this proposal merits consideration. However, the LAO also notes that the Legislature may consider charging a fee for services provided by DOJ's labs.

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION

The mission of the California Department of Corrections and Rehabilitation (CDCR) is to enhance public safety through safe and secure incarceration of offenders, effective parole supervision, and rehabilitative strategies to successfully reintegrate offenders into our communities.

The CDCR is organized into eleven programs: Corrections and Rehabilitation Administration; Corrections Standards Authority; Juvenile Operations; Juvenile Education, Vocations, and Offender Programs; Juvenile Parole Operations; Juvenile Health Care Services; Adult Operations; Adult Parole Operations; Board of Parole Hearings; Adult Rehabilitative Programs; and Correctional Health Care Services.

ISSUE 1: JAIL TIME FOR SPECIFIED FELONIES

The Governor proposes to amend sentencing law by changing certain felonies that are currently eligible for incarceration in prison to an alternative felony term subject to no more than 366 days in local jail. The Administration's proposed language would exempt individuals with prior serious or violent felony convictions who would be subject to state prison terms but not jail.

Crimes proposed for conversion fall into the following categories:

- Auto theft
- Check fraud
- Drug possession
- Grand theft
- Petty theft with a prior
- Possession for sale
- Receiving stolen property
- Theft with felony prior

Offenders prosecuted under the revised statutes would generally serve their time in county jail or on county probation instead of state prison. County jails currently house about 82,000 inmates on average, and counties supervise about 347,000 offenders on probation. The Administration proposes to add additional crimes to this list if the proposed federal funds trigger is pulled.

STAFF COMMENT

The LAO finds that this proposal merits consideration but recommends that the proposal be revised to 1) reduce the savings estimates, 2) allow counties greater flexibility to use alternatives to incarceration, and 3) revise the trailer bill language to clarify that offenders who are charged with the specified wobbler crimes and who have prior serious or violent offenses would still be eligible to be tried for a misdemeanor, as is the case under current law. Staff notes that the Administration has addressed the LAO's third concern.

8910 OFFICE OF ADMINISTRATIVE LAW

The Office of Administrative Law is responsible for reviewing administrative regulations proposed by over 200 state regulatory agencies for compliance with standards set forth in California's Administrative Procedure Act, for transmitting these regulations to the Secretary of State, and for publishing regulations in the California Code of Regulations. The Office assists state regulatory agencies through a formal training program, as well as through other less formal methods, to understand and comply with the Administrative Procedure Act. Through its Reference Attorney service, the Office provides direct legal advice to state agencies and members of the public regarding California rule making law.

In response to petitions by interested persons, the Office evaluates whether rules being used by state agencies constitute underground regulations which have not been properly adopted pursuant to the requirements of the Administrative Procedure Act and issues formal determinations reflecting those evaluations.

The Office oversees the publication and distribution, in print and on the Internet, of the California Code of Regulations and the California Regulatory Notice Register.

ISSUE 1: CONVERT FUNDING TO FEE FOR SERVICE

The Governor proposes to eliminate OAL's General Fund appropriation (\$1.7 million) and Central Service Cost Recovery Fund appropriation (\$1.1 million) for 2010-11 and replace them with a \$2.8 million appropriation from the newly created Regulatory Oversight Revolving Fund. This will shift OAL to a fee for-service model, in which OAL would directly bill regulation-issuing departments for its costs.

STAFF COMMENT

The LAO finds that The Governor's proposal to link the specific activities of OAL to the departments promulgating regulations has merit. Not all departments need to issue regulations every year. Linking OAL's funding to departments that issue regulations, some of which are funded through special funds, would better link the activities to the funding, and should help reduce General Fund costs.

The LAO notes, however, that the proposed fee-for-service mechanism would increase costs for General Fund departments that issue regulations and perhaps for non-General Fund department that issue regulations frequently. The LAO also raised the following questions; 1) Will overhead and administrative costs be captured in the fee? 2) How will transition to this funding mechanism work?

9801 REDUCTION FOR EMPLOYEE COMPENSATION

ISSUE 1: REDUCTION FOR EMPLOYEE COMPENSATION

Special Session proposals achieve state employee salary and workforce savings totaling \$1.6 billion GF (\$2.9 billion all funds) in 2010-11, consisting of:

1. “5-5-5” Plan

- 5 percent across-the-board salary reduction (\$529.6 million GF, \$278.5 million Special Funds (SF), \$137.2 million Non-Governmental Cost Funds (NGC)).
- 5 percent increase in employee pension contributions, reducing employer contributions by a like amount (\$405.8 million GF, \$213.3 million SF, \$105.1 million NGC).
- 5 percent reduction to departmental personnel costs via Executive Order S- 01-10 requiring agencies and departments to cap the size (reduction of 8,915.7 PYs) and cost of the workforce by July 1, 2010 (\$449.6 million GF, \$236.4 million SF, \$116.4 million NGC).

2. Health Care Savings

The Governor proposes to authorize the state to contract for lower-cost health care coverage either directly from an insurer or through CalPERS (\$152.8 million GF, \$64.6 other funds). This proposal is identical to the Administration's proposal that was rejected by the Legislature last year.

3. Pre-funding for Health and Dental Benefits for Annuitants

Proposes a workload decrease for pre-funding other post employment benefit costs (it is not currently state policy to pre-fund Other Post Employment Benefits except for CHP officers which is \$5.5 million special funds) (\$98.1 million GF).

STAFF COMMENT

Collective bargaining (Dills Act; 1977) requires the Administration to meet and confer in good faith with unions who must also meet and confer in good faith. Through negotiation, the parties reach agreement on MOUs delineating key terms of employment. MOUs must be approved by the bargaining unit and key provisions (i.e., requiring expenditure of funds) must be approved by the Legislature. The Governor proposes to implement the salary cut and pension increase notwithstanding existing law.

The Administration expects that attrition will be the primary factor in achieving the salary savings required under S-01-10; plans are required to be submitted by Feb. 1 and implemented by March 1. Savings from operating expenses and equipment cannot be used to meet the reduction target.

The LAO recommends that unallocated reductions be avoided, particularly for CDCR and finds there is inadequate justification to make unallocated reductions for special and federal funds. The LAO also recommends that the Legislature consider salary reductions for rank-and-file employees.